



For a thriving New England

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VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

RE: Notice of Violations and Intent to File Suit under the Clean Water Act

To Whom It May Concern:

The Conservation Law Foundation (“CLF”)¹ hereby gives notice to the addressed persons of its intent to file suit pursuant to Section 505 of the Federal Water Pollution Control Act (“Clean Water Act,” “CWA,” or “Act”), 33 U.S.C. § 1365(a), for violations of the Act specified below. This letter constitutes notice pursuant to 40 C.F.R., Part 135 (the “Notice”), to the addressed persons of CLF’s intention to file suit in United States District Court of the District of Massachusetts, seeking appropriate equitable relief, civil penalties, and other relief no earlier than 60 days from the postmark date of this Notice letter.

The subject of this action is three-fold. First, Atlantic Used Trucks & Salvage Corporation (hereinafter “Atlantic Corp.”) is discharging stormwater directly associated with the industrial automobile salvage yard facility (SIC Code 5015) located at 12 Baldwin Street, Lowell, MA 08151 (the “Facility”), to the waters of the United States without a permit, in violation of Sections 301(a) and 402(p)(2)(B) of the CWA, 33 U.S.C. §§ 1311(a) and 1342(p)(2)(B). Second, Atlantic Corp. has failed to obtain coverage under any Clean Water Act permit including the

¹ CLF is a not-for-profit 501(C)(3) organization dedicated to the conservation and protection of New England’s environment. Its mission includes the conservation and protection of the many uses of the waters in and around the Merrimack watershed for, among other things, fishing, recreation, scenic/aesthetic and scientific purposes. CLF’s membership includes people who live in or near the Merrimack watershed, and use and enjoy the watershed for recreational, aesthetic, and/or scientific purposes. The interests of CLF’s members are adversely affected by the Facility’s discharges of stormwater pollution to the receiving waters without a permit and in violation of the Clean Water Act.

Multi-Sector General Permit² (“MSGP”) adopted by the United States Environmental Protection Agency (“EPA”) for industrial sources of polluted stormwater runoff, and failed to comply with the specific requirements of any such permit, in violation of Sections 402(p)(3)(A) and 402(p)(4)(A) of the CWA, 33 U.S.C. §§ 1342(p)(3)(A) and (p)(4)(A), and 40 C.F.R. §§ 122.26(c)(1) and (e)(1). In addition, Atlantic Corp. has failed to obtain individual National Pollutant Discharge Elimination System (“NPDES”) permit coverage for any process water discharges associated with cleaning automobile parts of oil, paint, metals and grease, flushing automobile engines, crushing and/or dismantling automobile parts, and storing automobile parts both inside the Facility structure and outside in its yard.

BACKGROUND

Atlantic Corp. discharges into the Merrimack River at Segment MA84A-01, a 9-mile stretch which flows directly into adjacent segments of the Merrimack River (Segment IDs MA84A-02, MA84A-03, MA84A-04, MA84A-05, and MA84A-06) and thereafter into the Atlantic Ocean. Segment MA84A-01 and adjacent segments of the Merrimack River are within the Merrimack watershed, an interstate watershed shared by Massachusetts and New Hampshire.

EPA has designated Segment MA84A-01 as impaired pursuant to Section 303(d) of the Act, 33 U.S.C. § 1313(d), for failure to meet minimum water quality standards. Segment MA84A-01 of the Merrimack River is impaired for mercury and pathogens, namely fecal coliform.³ Urban-related runoff and stormwater, combined sewage overflows, and atmospheric deposition have been identified as probable sources of impairments in Segment MA84A-01.

Segment MA84A-01 of the Merrimack River flows into Segment MA84A-02. EPA has designated Segment MA84A-02 as impaired pursuant to Section 303(d) of the Act, 33 U.S.C. § 1313(d), for failure to meet minimum water quality standards. Segment MA84A-02 is impaired for mercury, nutrients, flow alteration(s), and pathogens, namely fecal coliform.⁴ Urban-related runoff and stormwater, municipal discharges and sewage, and atmospheric deposition have been identified as probable sources of impairments in Segment MA84A-01. Downstream reaches of the Merrimack River are similarly impaired as Segment 84A-01 and Segment 84A-02.

² ENVIRONMENTAL PROTECTION AGENCY, MULTI-SECTOR GENERAL PERMIT FOR STORMWATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITY (MSGP) [hereinafter MSGP], *available at* http://water.epa.gov/polwaste/npdes/stormwater/upload/msgp2015_finalpermit.pdf (last visited September 17, 2015).

³ http://ofmpub.epa.gov/waters10/attains_waterbody.control?p_au_id=MA84A-01&p_list_id=MA84A-01&p_cycle=2012 (last visited October 27, 2015).

⁴ http://ofmpub.epa.gov/waters10/attains_waterbody.control?p_au_id=MA84A-02&p_list_id=MA84A-02&p_cycle=2012 (last visited October 21, 2015).

Stormwater is water from precipitation events that flows across the ground and pavement after rain events or after snow and ice melt.⁵ Industrial activities, including but not limited to the dismantling, handling, and storing automobile and/or motor engines and parts, maintaining and cleaning equipment, washing of automobile engines and parts, industrial processing, and mechanical repairs may be exposed to stormwater flow.⁶ As a result of such industrial activities, stormwater may come into contact with pollutants including, but not limited to, antifreeze, paint, engine oil, grease, detergents and degreasers, metals, lubricating oil, brake fluid, transmission fluid, heavy metal particles, and hydraulic fluid. Stormwater from industrial facilities, contaminated with pollutants, is then conveyed into nearby waterbodies.⁷

In order to discharge stormwater lawfully, Atlantic Corp. is required to apply for coverage under a Clean Water Act discharge permit such as the MSGP. Since at least 2010, Atlantic Corp. has been specifically required to apply for coverage under the MSGP by filing a Notice of Intent (“NOI”) within ninety days after the initial issuance of the MSGP.⁸ On June 16, 2015, after expiration of the prior permit, the EPA issued a new MSGP requiring all covered facilities to file an NOI for coverage under the 2015 permit.

Atlantic Corp. has failed to obtain coverage under the MSGP or any other valid authorization at any time. Therefore, Atlantic Corp. is operating in violation of the Clean Water Act.

PERSONS RESPONSIBLE FOR ALLEGED VIOLATIONS

Atlantic Used Trucks and Salvage Corp. is the person, as defined by Section 502(5) of the CWA, 33 U.S.C. § 1362(5), responsible for the violations alleged in this Notice. Atlantic Corp. has operated the Facility since at least 1966 and currently advertises as the operator of the Facility.⁹ Atlantic Corp. and its agents and directors, including but not limited to Mark R. Corey, president and director, have operational control over the day-to-day industrial activities at this Facility. Therefore, they are responsible for managing stormwater at the Facility in compliance with the Clean Water Act.

LOCATION OF THE ALLEGED VIOLATION

⁵ See 40 C.F.R. § 122.26(b)(13).

⁶ See 40 C.F.R. § 122.26(b)(14).

⁷ See 58 Fed. Reg. 61,146, 61,154 (November 19, 1993).

⁸ EPA’s Final National Pollutant Discharge Elimination System Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP) was first issued in 1995, reissued in 2000, 2008, and 2015. See 60 Fed. Reg. 50,804 (Sept. 29, 1995); 65 Fed. Reg. 64,746 (Oct. 30, 2000); 73 Fed. Reg. 56,572 (Sept. 29, 2008); 80 Fed. Reg. 34,403 (June 16, 2015). See MSGP parts 1.1 and 1.2.

⁹ See Massachusetts state records:

http://corp.sec.state.ma.us/CorpWeb/CorpSearch/CorpSummary.aspx?FEIN=042430860&SEARCH_TYPE=1 (last visited October 27, 2015).

The violations alleged in this Notice have occurred and continue to occur at the industrial automobile salvage facility located at 12 Baldwin Street, Lowell, MA 01851.

ACTIVITIES ALLEGED TO BE VIOLATIONS

Atlantic Corp. has, and continues to, engage in “industrial activities,” and its operations fall under SIC code 5015 within the meaning of 40 C.F.R. §§ 122.26(b)(14)(ii) & (viii).¹⁰ Because the Facility is classified under primary SIC code 5015 and discharges stormwater associated with industrial activity, Atlantic Corp. is required to apply for, obtain coverage under, and comply with the requirements of a NPDES permit such as the MSGP. In addition, Atlantic Corp. is required to obtain individual NPDES permit coverage for process water discharges that may result from activities such as cleaning, dismantling, crushing, handling, and storing automobile engines and other parts. Atlantic Corp. has failed to take any of these required steps.

Activities at the Facility include, but are not limited to: dismantling, crushing, handling, cleaning, and storing automobile engines, transmissions, wheels, bumpers, hoods, fenders, and other parts; repairing used engines in preparation for resale; cleaning and changing oil filters and fuel filters; flushing engines; handling and disposing of materials; and other activities resulting in the improper discharge of engine oil, antifreeze, lubricating oil, brake fluid, transmission fluid, heavy metal particles, and hydraulic fluid into storm sewers or into receiving water. Heavy machinery and other equipment is operated and stored outdoors, therefore being exposed to and corroded by the elements. Vehicles driving on and off the Facility site track pollutants off-site. Atlantic Corp. has publicly stated its willingness to transport purchased automobile parts and scrap up to 50 mile offsite.

Industrial equipment, materials and vehicles at the Facility are exposed to precipitation and snowmelt. Precipitation falls on and flows over the Facility, picking up paint solids, heavy metals, total suspended solids (TSS), total dissolved solids (TDS), diesel/gas fuel, ethylene glycol (antifreeze), acid and alkaline wastes, solvents, engine oil, lubricating oil, brake fluid, transmission fluid, hydraulic fluid, low density waste (floatables), trash, and other pollutants associated with the Facility’s operations. The polluted runoff is then conveyed off-site into waters of the United States via man-made collection systems and through the nexus of wind, water, and gravity.

STANDARDS AND LIMITATIONS ALLEGED TO HAVE BEEN VIOLATED

The Clean Water Act prohibits the discharge of pollutants to the waters of the United States except in accordance with a valid NPDES permit.¹¹ Atlantic Corp. discharges stormwater

¹⁰ See MSGP, Appendix D: Activities Covered. automobile salvage facilities (SIC 5015) are subject to the requirements of the MSGP for stormwater discharges.

¹¹ 33 U.S.C. § 1311(a).

associated with its industrial activity, as defined by 40 C.F.R. § 122.26(b)(14), from its Facility into waters of the United States. Because Atlantic Corp. has not obtained coverage for these stormwater discharges under the MSGP or an individual NPDES permit, it is illegally discharging stormwater without a permit, in violation of Sections 301(a) and 402(p)(2)(B) of the CWA, 33 U.S.C. §§ 1311(a) and 1342(p)(2)(B).¹² By failing to apply for and comply with the specific requirements of the MSGP and individual NPDES permit program, Atlantic Corp. is in violation of Sections 402(p)(3)(A) and 402(p)(4)(A) of the CWA, 33 U.S.C. §§ 1342(p)(3)(A) and (p)(4)(A), and 40 C.F.R. §§ 122.26(c)(1) and (e)(1). In addition, unpermitted discharges of process wastewater constitute violations of Section 301(a) of the CWA, 33 U.S.C. § 1311(a), and CLF puts Atlantic Corp. on notice that CLF intends to pursue claims related to Atlantic Corp.'s unpermitted discharges of process water to waters of the United States.

a. Atlantic Corp. is discharging stormwater to waters of the United States without a permit.

Atlantic Corp. is an industrial discharger with a primary SIC Code of 5015, which means that pursuant to Section 402(p) of the Act, 33 U.S.C. § 1342(p), Atlantic Corp. is obligated to apply for coverage under the MSGP or to obtain other legal authorization. Because Atlantic Corp. has operated and continues to operate without a permit under Section 402(p), 33 U.S.C. § 1342(p), Atlantic Corp. is in violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

In addition, during storm events, Atlantic Corp.'s "industrial activities" at its Facility have resulted in a "discharge of pollutants" within the meaning of Section 502(12) of the CWA, 33 U.S.C. § 1362(12) and "stormwater discharge associated with industrial activity" within the meaning of 40 C.F.R. § 122.26(b)(14), from its Facility on each and every day that there has been a measurable precipitation event of above 0.1 inches.¹³ There have been many such storm events since 2010. The Facility is generating pollutants from and through at least the following point sources: site grading and sloped surfaces, ditches, automobile hulks, material piles, culverts, shallow subsurface hydrological connections, machines and equipment left outdoors, vehicles driving on and off the Facility, and other conveyances to the Merrimack River.¹⁴ The Merrimack River flows into the Atlantic Ocean, all of which are "waters of the United States," as defined in 40 C.F.R. § 122.2, and therefore are also "navigable waters," as defined in Section

¹² See 33 U.S.C. § 1362(12); 40 C.F.R. § 122.2; MSGP, Appendix A: Definitions, Abbreviations, and Acronyms (defining the term "discharge of a pollutant" as, *inter alia*, "any addition of any 'pollutant' or combination of pollutants to 'waters of the United States' from any 'point source'").

¹³ See 40 C.F.R. § 122.26(c)(i)(E)(6). EPA has determined that precipitation greater than 0.1 inches in a 24-hour period constitutes a measurable precipitation event for the purposes of evaluating stormwater runoff associated with industrial activity.

¹⁴ These discharges constitute "point sources" as defined by 33 U.S.C. § 1362(14) and 40 C.F.R. § 122.2. CLF specifically puts Atlantic Corp. on notice that the unpermitted stormwater discharges associated with industrial activity include discharges from the Facility areas specified in 40 C.F.R. § 122.26(b)(14). See also 40 C.F.R. § 122.2, which states that the definition of "discharge of a pollutant" "includes additions of pollutants into waters of the United States from: surface runoff which is collected or channelled by man[.]"

502(7) of the CWA, 33 U.S.C. § 1362(7). The Facility is discharging this industrial stormwater without the permit required under Section 402 of the Act, 33 U.S.C. § 1342.

b. Atlantic Corp. is violating the Clean Water Act by failing to obtain coverage and failing to comply with the requirements of the MSGP.

Atlantic Corp. is violating Sections 402(p)(3)(A) and 402(p)(3)(4) of the CWA, 33 U.S.C. §§ 1342(p)(3)(A) and (p)(4)(A), and 40 C.F.R. §§ 122.26(c)(1) and (e)(1), by failing to apply for, obtain coverage, and comply with the requirements of the MSGP.¹⁵ The Facility has a primary SIC Code of 5015 and must obtain coverage under the MSGP for its stormwater discharges and for stormwater discharges from any co-located industrial activities.¹⁶ Atlantic Corp.'s failure to obtain coverage and comply with the permit is in violation of the MSGP and Section 402(p) of the Clean Water Act, 33 U.S.C. § 1342(p).¹⁷

1) Atlantic Corp. Must Develop and Implement a Stormwater Pollution Prevention Plan (SWPPP).

As a prerequisite to applying for coverage under the MSGP, Atlantic Corp. must develop and implement a Stormwater Pollution Prevention Plan ("SWPPP").¹⁸ The SWPPP must include, but is not limited to, the following: information related to a company stormwater pollution prevention team, a site description, a summary of pollutant sources, a description of control measures, and schedules and procedures pertaining to control measures and monitoring.¹⁹ Atlantic Corp. has failed to develop and implement a SWPPP in accordance with the MSGP requirements in violation of the MSGP and Section 402(p) of the Clean Water Act, 33 U.S.C. § 1342(p).

2) Atlantic Corp. Must Submit to EPA a Complete Notice of Intent to be Covered under the MSGP.

To be eligible to discharge under the MSGP, Atlantic Corp. must submit a complete Notice of Intent ("NOI") to the EPA.²⁰ To complete the NOI, Atlantic Corp. is required to determine whether the body of water to which the stormwater discharges is an "impaired" waterbody, and whether the Facility discharges any specific pollutants listed on the NOI to that waterbody.²¹ The Merrimack River at and downstream of the Facility is classified as "impaired" water.²²

¹⁵ MSGP part 1.1 and 1.2.

¹⁶ See MSGP part 1.1; MSGP part 8.M.

¹⁷ A thorough search of EPA's database indicates that Atlantic Corp. has not filed an NOI for the Facility.

¹⁸ See MSGP part 5.

¹⁹ See MSGP part 5.2.

²⁰ See MSGP part 1.2.

²¹ See MSGP part 2.2.2.

²² See *supra* notes 3, 4.

Additionally, as part of preparing the NOI, the covered Facility must make certain verifications, such as ensuring that no harm is done to a species in violation of the Endangered Species Act.²³ Atlantic Corp. has failed to prepare and file an NOI meeting all applicable requirements in violation of the MSGP and Section 402(p) of the Clean Water Act, 33 U.S.C. § 1342(p).

3) Atlantic Corp. Must Take Control Measures and Meet Water-Quality Effluent Limitations.

To be eligible to discharge under the MSGP, Atlantic Corp. must select, design, install, and implement control measures (including best management practices) to prevent polluted stormwater discharges from reaching nearby waterbodies. Atlantic Corp. must address the selection and design considerations in the permit, meet the non-numeric effluent limitations in the permit, and meet limits contained in applicable permit effluent limitations guidelines.²⁴ These control practices must be in accordance with good engineering practices and manufacturer's specifications.²⁵ If the control measures are not achieving their intended effect of minimizing pollutant discharges, the permittee must modify these control measures as expeditiously as practicable.²⁶ Atlantic Corp. has failed to cover the materials and operations that may result in polluted stormwater runoff. Atlantic Corp. has not implemented the required control measures in violation of the MSGP and Section 402(p) of the Clean Water Act, 33 U.S.C. § 1342(p).

4) Atlantic Corp. Must Conduct Routine Facility Inspections.

To be eligible to discharge under the MSGP, Atlantic Corp. must conduct routine inspections of all areas of the Facility where industrial materials or activities are exposed to precipitation, and must ensure that all stormwater control measures comply with the effluent limits contained in the MSGP.²⁷ Routine inspections must be conducted at least quarterly but in many instances monthly inspections are most appropriate.²⁸ These inspections must occur when the Facility is in operation.²⁹ The schedule of these inspections must be included in the Facility's SWPPP and be performed by qualified personnel.³⁰ Atlantic Corp. has failed to conduct the required routine inspections in accordance with the MSGP requirements in violation of the MSGP and Section 402(p) of the Clean Water Act, 33 U.S.C. § 1342(p).

²³ See MSGP part 1.1.4.5 and 2.3.

²⁴ See MSGP part 2.1.

²⁵ *Id.*

²⁶ *Id.* See also MSGP Part 4.

²⁷ See MSGP part 3.1.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

5) Atlantic Corp. Must Comply with the Required Monitoring and Sampling Procedures.

To be eligible to discharge under the MSGP, Atlantic Corp. must collect and analyze stormwater samples and document monitoring activities consistent with the procedures in the MSGP.³¹ The MSGP requires five types of analytical monitoring (one or more of which may apply) including quarterly benchmark monitoring, annual effluent limitations guidelines monitoring, State or Tribal-specific monitoring, impaired waters monitoring, and other monitoring as required by the EPA.³² An operator must monitor each outfall identified in the SWPPP covered by a numeric effluent limit.³³ Required monitoring must be performed after stormwater events that result in an actual discharge on a required schedule.³⁴ All monitoring data collected under the MSGP must be reported to EPA. Furthermore, because the Merrimack River is an “impaired water” under Section 303(d) of the CWA, 33 U.S.C. § 1313(d), Atlantic Corp. must monitor for all pollutants for which the Merrimack River is impaired.³⁵ Atlantic Corp. has failed to conduct the required monitoring under the MSGP and has failed to submit the required monitoring reports to EPA in violation of the MSGP and Section 402(p) of the Clean Water Act, 33 U.S.C. § 1342(p).

6) Atlantic Corp. Must Carry out the Required Reporting and Recordkeeping.

Atlantic Corp. must maintain and submit any and all required monitoring data.³⁶ Such monitoring data includes the following: an annual report to EPA which includes the Facility’s findings from the annual comprehensive site inspection and any documentation of corrective actions;³⁷ an Exceedance Report to the EPA if any of the follow-up monitoring shows exceedances of a numeric effluent limit;³⁸ and any other required reports under the MSGP.³⁹ Atlantic Corp. has failed to maintain the required records and failed to submit all required monitoring data under the MSGP in violation of the MSGP and Section 402(p) of the Clean Water Act, 33 U.S.C. § 1342(p).

7) Atlantic Corp. Must Comply with the Requirements of MSGP Part 8 Subpart M

Atlantic Corp. must also comply with the sector-specific requirements contained in Subpart M under Part 8 of the MSGP.⁴⁰ Subpart M requires automobile salvage yards to implement

³¹ See MSGP part 6.

³² See MSGP part 6.2.

³³ See MSGP part 6.1.1.

³⁴ See MSGP part 6.1.3.

³⁵ See MSGP part 6.2.4.

³⁶ See MSGP part 7.

³⁷ See MSGP part 7.5.

³⁸ See MSGP part 7.6.

³⁹ See MSGP part 7.7.

⁴⁰ See MSGP, Appendix D, Table D-1, Sector M.

technology-based effluent limits,⁴¹ meet additional SWPPP and inspection requirements,⁴² and monitor stormwater discharges for compliance with the benchmark limitations applicable specifically to auto salvage yard facilities.⁴³ Atlantic Corp. has failed to comply with the requirements of Subpart M of the MSGP in violation of the MSGP and Section 402(p) of the Clean Water Act, 33 U.S.C. § 1342(p).

DATES OF VIOLATION

Each day on which Atlantic Corp. operates its Facility without permit coverage or discharges stormwater and/or process wastewater without a permit from the Facility is a separate and distinct violation of Sections 301(a) and 402(p)(2)(B) of the CWA, 33 U.S.C. §§ 1311(a) and 1342(p)(2)(B).

Atlantic Corp. has discharged stormwater without a permit in violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a), on every day since at least 2010 on which there has been a measurable precipitation event. Each day on which Atlantic Corp. operates its Facility without permit coverage or discharges process water without a permit from the Facility is a separate and distinct violation of Section 301(a) of the CWA, 33 U.S.C. §§ 1311(a).

Every day, since at least 2010, on which Atlantic Corp. has failed and continues to fail to apply for, obtain coverage, and comply with the requirements of the MSGP is a violation of Section 402(p)(3)(A) and (p)(4)(A) of the CWA, 33 U.S.C. §§ 1342(p)(3)(A) and (p)(4)(A).

Each day on which Atlantic Corp. operates its Facility without permit coverage or discharges process water without a permit from the Facility is a separate and distinct violation of Section 301(a) of the CWA, 33 U.S.C. §§ 1311(a).

These violations are ongoing and continuous, and barring a change in the stormwater management controls at the Facility and full compliance with the permitting requirements of the Clean Water Act, these violations will continue indefinitely.

RELIEF REQUESTED

Atlantic Used Trucks & Salvage Corporation is liable for the above-described violations occurring prior to the date of this letter, and for every day that these violations continue. Pursuant to Section 309(d) of the Act, 33 U.S.C. § 1319(d), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. § 19.4, each separate violation of the Act subjects Atlantic

⁴¹ See MSGP part 8.M.2.

⁴² See MSGP part 8.M.3; 8.M4.

⁴³ See MSGP part 8.M.5; Table 8.M-1.

Corp. to a penalty up to \$37,500 per day for each violation that occurred after January 12, 2009.⁴⁴ CLF will seek the full penalties allowed by law.

In addition to civil penalties, CLF will seek declaratory relief and injunctive relief to prevent further violations of the Clean Water Act pursuant to Sections 505(a) and (d), 33 U.S.C. § 1365(a) and (d), and such other relief as permitted by law. CLF will seek an order from the Court requiring Atlantic Corp. to correct all identified violations through direct implementation of control measures and demonstration of full regulatory compliance.

Lastly, pursuant to Section 505(d) of the Act, 33 U.S.C. § 1365(d), CLF will seek recovery of costs and fees associated with this matter.

CONCLUSION

During the 60-day notice period, CLF is willing to discuss effective remedies for the violations noted in this letter that may avoid the necessity of further litigation. If you wish to pursue such discussions, please have your attorney contact Zachary Griefen within the next 20 days so that negotiations may be completed before the end of the 60-day notice period. We do not intend to delay the filing of a complaint in federal court if discussions are continuing at the conclusion of the 60 days.

Sincerely,



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⁴⁴ 40 C.F.R. § 19.2



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